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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. EDNA ADU-GYAMFI, Defendant and Appellant.	A154323 (Solano County Super. Ct. No. FCR217757)

Defendant Edna Adu-Gyamfi appeals from an April 18, 2018, order extending her commitment as a mentally disordered offender (MDO) until May 12, 2019.[1] Her sole challenge is to the sufficiency of the evidence to support the trial court's decision. We affirm.[2]

PROCEDURAL AND FACTUAL BACKGROUND

Defendant is schizophrenic and was convicted in 2004 of felony arson of an inhabited structure (Pen. Code, § 451, subd. (b)[3]). Pursuant to section 2684, she was

[1] In her notice of appeal, defendant incorrectly lists the date of the order appealed as April 17, 2018, which is the date of the trial, instead of April 18, 2018, which is the date the order was filed. In the absence of any prejudice, we deem the notice of appeal to encompass the April 18, 2018, order. (Cal. Rules of Court, rules 8.100(a)(2) ["notice of appeal must be liberally construed"]; 8.104(d)(2) ["premature notice of appeal'].)

[2] We resolve this case by memorandum opinion pursuant to California Rules of Court, Standard 8.1, which provides that a memorandum opinion is appropriate when an appeal "raise[s] factual issues that are determined by the substantial evidence rule."

[3] All further unspecified statutory references are to the Penal Code.

admitted to Patton State Hospital (Hospital) as a medically ill prisoner. In 2011, she was declared an MDO under section 2962.

In November 2017, the People filed a petition to extend defendant's MDO commitment for a period of one year. (§§ 2970, 2972.) Defendant waived a jury and her appearance at trial, which was held on April 17, 2018. The People presented the testimony of four Hospital staff members, and the defense did not present an affirmative case. Based on the below summarized testimony, the trial court found beyond a reasonable doubt that defendant had a severe mental disorder that is not and could not be kept in remission without treatment and that, by reason of her severe mental disorder, she represented a substantial danger of physical harm to others. The court extended defendant's MDO commitment for one year until May 12, 2019. Defendant timely filed a notice of appeal.

Because the sole issue on appeal is the sufficiency of the evidence to support the court's extension of the MDO commitment order, we set forth only the pertinent portions of the testimony admitted at trial.

I. Psychiatrist Chang

Dr. Jeffrey Chang is a staff psychiatrist who treated defendant from January 2017 to January 2018. He described defendant's mental disorder of schizophrenia as a condition that was lifelong and significantly impacted her ability to reason and required medication. Defendant received her medication by injection, which was a protocol typically used with patients not compliant with taking oral medication.

Chang further testified that although defendant was medicated, she was not in complete remission: "[She] represents a portion of schizophrenias [*sic*] who do not respond well to medication, do not respond completely." During the time defendant was in Chang's care, defendant exhibited disorganized behavior, selective muteness, and bizarre, inappropriate affect. Because her medication helped control only some of her active symptoms, it was difficult for defendant to "be a rational participant in treatment and modify her own dangerousness." Defendant refused to try a different medication that would be harder to manage but could be more efficacious.

Chang opined that defendant would likely discontinue her medication if it were up to her and he was "concerned with her dangerousness towards others" since her relapse plan did not include taking medication or seeking assistance from medical personnel. Chang also opined that if defendant did not take her medication and she was not in a secure environment she would engage in dangerous behavior toward either herself or others. Because defendant had limited ability to participate in her treatment, she could not be expected to manage herself in the community. According to Chang, defendant posed a significant danger to others due to her mental illness, poor insight, and poor understanding of her illness and its relationship to the arson she committed.

II. Psychiatric Technician West

Psychiatric technician Sonja West was defendant's personal counselor for three to four months in 2017 and conducted weekly counseling sessions until defendant asked for another counselor. Defendant told West that she (defendant) was in the hospital due to a conspiracy. West also testified concerning defendant's history of conflict with another patient (Patient A). Defendant and Patient A had a history of conflict when they were roommates and defendant would bump Patient A during those conflicts; they were separated and no longer roomed together due to these incidents. In September 2017, West saw defendant use her shoulder to bump Patient A in the back. When questioned by West, defendant denied touching Patient A.

III. Psychologist Nelson

Clinical and forensic psychologist Adrianne Nelson conducted therapy sessions with defendant from January 2017 to January 2018. Nelson described defendant as suffering from the mental disorder of schizoaffective disorder bipolar type, a lifelong chronic illness. Nelson described defendant's self-reporting of her symptoms which included some mood symptoms but no disorganized speech, disorganized behavior, catatonia, or hallucinations. Defendant's most pervasive symptom was "persecutory thinking or persecutory delusions where she believes that people are against her, that staff, peers are against her, that she's being abused by staff or peers and that she's in a hostile environment." Defendant believed people were "after her" and wrote numerous

letters, including three while under Nelson's care, indicating she (defendant) was being persecuted. Defendant sometimes refused to speak due to fears that were symptomatic of her illness. Nelson also opined that defendant's conduct regarding the Fall 2017 bumping incident between defendant and Patient A, as described by West, was consistent with defendant's psychiatric diagnosis.

Nelson confirmed defendant's overt symptoms were reasonably controlled by medication, but further noted that in the past defendant had stopped her medication and had become aggressive. Defendant was opposed to exploring her illness and her past, she did not have any clear relapse-prevention plan, and she refused to engage in a formal violence risk assessment.

IV. Psychiatrist Nguyen

Dr. Dau Van Nguyen is a staff psychiatrist who had treated defendant since January 2018. Nguyen described defendant's mental disorder as manifesting both "thought" or psychotic symptoms, such as auditory hallucinations, paranoia, and delusions, and mood symptoms, such as "depression, manic behavior, [and] mood swing[s]." Defendant was receiving long-acting injectable medication for her psychotic symptoms because she refused to take oral medication. However, defendant refused to take medication for her mood symptoms and she wanted to stop her medication for her psychotic symptoms because, according to defendant, it had been a long time since she heard voices and she was not paranoid. Defendant also refused to discuss a relapse-prevention plan because she believed she had "master[ed] all of the skill[s]." Nguyen opined that defendant's lack of understanding of a need for a relapse-prevention plan made her a danger to herself and others.

Nguyen believed defendant was required to regularly take medication to treat her mental disorder. When defendant had stopped taking her medication in the past, she psychiatrically decompensated and became assaultive and threatening to others. Nguyen further opined that if defendant were released into the community she would not take medication, based on her recent letter that she wanted to stop her medication. Nguyen

was positive that if defendant stopped her medication, she would have a psychiatric relapse and become a danger to both herself and others.

V. Trial Court's Decision

Following argument by counsel, the trial court found: "[T]he testimony is uncontroverted. There's nothing to the contrary so that the Court is satisfied and the Court does find beyond a reasonable doubt that [defendant] does have a severe mental disorder that is not or cannot be kept in . . . remission without treatment and that by reason of her severe mental disorder, she represents a substantial danger of physical harm to others. [¶] So the Court orders her recommitted to Patton State Hospital for a period of one year and finds that . . . the next termination date would be May 12th of 2019."

DISCUSSION

To prevail on a petition extending an MDO commitment, the People must prove beyond a reasonable doubt that (1) the patient has a severe mental disorder; (2) the disorder is not in remission and cannot be kept in remission without treatment; and (3) by reason of that mental disorder, the patient represents a substantial danger of physical harm to others. (§§ 2970, 2972, subds. (c) & (e).) While the statute provides definitions for certain terms used therein, "[t]he term 'substantial danger of physical harm to others' is not defined." (*In re Qawi* (2004) 32 Cal.4th 1, 23.) "In context, it appears to mean a prediction of future dangerousness by mental health professionals." (*Id*. at p. 24.)

In challenging the sufficiency of evidence to support the MDO recommitment order in this case, defendant does not dispute she has a severe mental disorder. She further asserts that the record contains substantial evidence that continued treatment for her diagnosed mental disorder is in her best interest. However, relying on isolated portions of the record, she argues that the evidence and the inferences to be drawn therefrom do not demonstrate "beyond a reasonable doubt" that she posed a substantial risk of physical harm to others if released from the hospital. We disagree.

As defendant concedes, on appeal we apply the substantial evidence rule "no matter what the standard of proof [is] at trial." (*In re E.B.* (2010) 184 Cal.App.4th 568, 578.) Under that rule, we determine "whether, on the whole record, a rational trier of fact could have found that defendant is an MDO beyond a reasonable doubt, considering all the evidence in the light which is most favorable to the People, and drawing all inferences the trier could reasonably have made to support the finding. [Citation.]" (*People v. Clark* (2000) 82 Cal.App.4th 1072, 1082.)

We conclude that, based on the testimony of the hospital staff, and the reasonable inferences drawn from that testimony, the trial court could rationally find defendant's severe mental disorder was not fully in remission and would require her to take medication for the duration of her life. The People also presented evidence that in the past when defendant stopped taking medication she had psychiatrically decompensated and became assaultive and threatening to others. The hospital physicians that treated defendant proffered their medical opinions concerning their predications of defendant's future dangerousness if released from the hospital. Absent supervision, defendant would likely not take her medication because she did not believe she needed medication or treatment and her relapse prevention plan did not include any medication regimen. Further, without supervision and medication, defendant would likely psychiatrically decompensate and pose a substantial danger of physical harm to others. (See *People v. Noble* (2002) 100 Cal.App.4th 184, 190 [court surmised that a trier of fact could reasonably find that defendant met the statutory criteria for an extension of his MDO commitment where "[t]here was evidence that defendant believes he does not need medication, dislikes its side effects, and will relapse if he stops taking it," and "[d]efendant's treatment professionals opined that, without treatment and supervision, he would discontinue the medication and would 'become more aggressive, would hear voices, . . . telling him to do things, and he would act out' "]; see also *People v. Williams* (2015) 242 Cal.App.4th 861, 874 [expert's opinion on future dangerous is based on entire

history in confinement, which showed defendant did not think he needed treatment]; *Id.* at p. 875 [because defendant "had no credible relapse prevention plan, his lack of violence in confinement was not substantial evidence that he could control his impulse toward violence on unsupervised release"].) We are not persuaded by defendant's "elaborate factual presentation," summarizing "virtually all the evidence adduced at trial and [pointing] out its strengths and weaknesses." (*Hasson v. Ford Motor Co*. (1982) 32 Cal.3d 388, 398.) That type of "showing is largely irrelevant to the issue on appeal: whether the evidence in [the People's] favor provides a sufficient basis for the [trial court's] findings." (*Ibid.*) By her arguments, defendant is merely attempting "to reargue on appeal those factual issues decided adversely to [her] at the trial level, contrary to established precepts of appellate review. As such, it is doomed to fail." (*Id*. at pp. 398–399.)

Accordingly, we must affirm the order extending defendant's MDO commitment because it is supported by substantial evidence.

DISPOSITION

The April 18, 2018, order is affirmed.

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Petrou, J.

WE CONCUR:

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Siggins, P.J.

_____
Fujisaki, J.